



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
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May 28, 1999

Minutes of the May 21, 1999, special meeting of the Commission on Governmental Ethics and Election Practices held in the First Floor Main Hearing Room, PUC Building, 242 State Street, Augusta, Maine.

Present: Chairman Peter B. Webster; Members Linda W. Cronkhite, Harriet P. Henry, and G. Calvin Mackenzie; Director William C. Hain, III; Counsel Phyllis Gardiner; and Commission Assistant Diana True.

Chairman Webster called the meeting to order at 9:15 a.m., announcing that the Commission members had been studying the additional materials that had been presented for their consideration before beginning deliberation of the matter involving The Christian Civic League of Maine, the only matter on the agenda for this special meeting.

Chairman Webster then addressed three points:

- He thanked Commission members for making time available to accommodate the special, additional meeting that was necessitated by the need to review additional materials that had been presented at the May 10 meeting and subsequently, and the fact that the composition of the Commission membership will be changing in June 1999.
- He thanked the Commission staff for wading through the wealth of additional materials that were presented at the previous meeting and subsequently.
- He announced that the instant proceedings were solely to consider the filings of The Christian Civic League of Maine (The League) with the Ethics Commission to determine whether any penalty should be imposed, and any matter directly related to those filings and penalty issues. He extended the Commission's appreciation to prospective witnesses for limiting their comments to those issues.

Chairman Webster then administered an oath/affirmation to the primary witnesses, Mr. Michael Heath, Executive Director of The Christian Civic League of Maine, and Mr. Jim Thompson, The League's former bookkeeper.

Mr. Hain presented an introductory summary of the status of events to date and an analysis of the information that has been presented for the Commission's consideration. Thereafter followed a brief presentation by Attorney Whiting on behalf of The League in which he addressed several of the points made in Mr. Donald Yeskoo's letter of May 16, 1999, and Ms. Priscilla Lane's letter of May 17, 1999, particularly addressing page 2 of The League's Executive Committee document dated July 11, 1997, and Ms. Rideout's letter referencing a matter of a \$10,000



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Minutes of Special Meeting on May 21, 1999

contribution. He noted the existence of two separate organizations, The Christian Civic League of Maine and The Christian Education League, for tax purposes. He concluded that The League has made every effort to make full disclosure to the Ethics Commission and has fully cooperated with the Commission and provided all information that the Commission has requested.

Mr. Mackenzie asked whether there had ever been any discussion of whether The League had any obligation to register as a Political Action Committee (PAC). Mr. Heath responded that he could recall no discussion of that nature. He noted that The League has discussed political activity with respect to candidate support, and that The League has stayed away from supporting specific candidates. He stated his understanding that referendum activity is viewed differently; his understanding and view of referendum politics was that The League had to be careful not to have money flow through The League to PACs. He stated that he told donors to make checks out to one of the PACs and that they would have to be separated. However, if the donor's intent was to support the activities of The League generally, then it was his understanding that donations could be made payable to The League.

Mr. Mackenzie then asked whether there had been any discussion regarding how to handle any checks coming into The League that may have been designated for referendum activity. Mr. Heath responded that he had instructed the bookkeepers to forward any such checks to the PACs, but that some checks designated for the referendum were deposited in The League's account to offset some of the in-kind contributions that The League was making to the PACs.

Judge Henry inquired whether there was any difference in the way The League handled general purpose funds compared to designated funds, specifically whether checks were batched by some code. Mr. Thompson responded that any checks earmarked for the referendum and designated as such were accounted for accordingly. Batch numbers were used to identify money received during a specific time period in response to solicitation letters that were sent requesting contributions to The League.

Judge Henry asked what the practice had been regarding filing of "appeal letters," referring to the reference to such a missing letter in Attorney Whiting's letter of May 20, 1999. Mr. Heath responded that The League did not have their appeal letters linked to batch numbers.

Ms. Priscilla Lane then addressed the Commission and inquired regarding the minutes of an Executive Board meeting of The League that she had submitted as evidence of The League's understanding of the PAC requirements, concluding that The League leadership knew what they were doing. Attorney Whiting responded that his interpretation of that document was different; that he believed it showed that the leadership's understanding and that they did know where the line was on the types of activities that were permitted, but that the line was crossed a couple of times, as he had previously reported.

Minutes of Special Meeting on May 21, 1999

Ms. June Meres addressed the Commission regarding the matter of cashing checks, with reference to bank statements and fund codes. She made the point that two statements in April 1999 correspondence from Attorney Whiting appear to contradict each other; or that, at least, they are confusing and require clarification. Attorney Whiting responded that when he had previously discussed "cash sales," he had understood that The League wrote checks out to PACs, but later he had learned from the bookkeeper that \$6,100 that he thought had been checks that went to PACs in actuality had been money received, not money spent. The checks for \$6,100 had been made out to The League, not to PACs.

Mr. Donald Yeskoo, former second vice president of The League, addressed the Commission. He stated that he had not received Mr. Hain's letter of May 18, 1999, until just before the start of the meeting. He inquired about how, if The League was claiming that all "AS" fund codes were for general contributions, the computer could distinguish between them. He stated that as a League Board member, he knows there was discussion of PAC activity, and The League specifically raised funds for referendum activity. Moreover, the ability to describe funds as "in-kind contributions" had to be for "services rendered," and that there must be documentation to tie each contribution received to a letter soliciting that contribution. Regarding the letter from Dallas Henry, Mr. Yeskoo stated that Mr. Henry had asked him to be the second vice president.

Mr. Yeskoo then stated his concern about the ability of the Commission staff to make an impartial recommendation to the Commission because Mr. Hain attends a church that is a member of The Christian Civic League and the Commission staff secretary is a sister-in-law of Mr. Heath.

Attorney Whiting responded that he had previously explained fund code "AS527" and did so again in his letter of May 20, 1999, and that the computer did not code receipts to match a particular solicitation; rather, the bookkeeper assigned the code as the item was entered into the system. He stated that "AS527" relates to a particular letter, but that it had not been used just for that letter and that many items had been entered under that code.

Mr. Paul Madore, a member of The League Board in 1994, addressed the Commission. He noted that Board members had discussed ethics and practices and that he had always been impressed with the scrutiny of The League's political activities. He noted that the Commission should attempt to establish a motive in this case, and that it was his opinion that the motive is the ongoing dispute within The Christian Civic League of Maine.

Mr. James McCleod addressed the Commission regarding the People's Veto code, referring to three pages of contributions, with the first contribution noted in October 1997, inquiring how that check related to the referendum. Attorney Whiting responded that the check in question had been written to the Christian Coalition.

Minutes of Special Meeting on May 21, 1999

Ms. Penny Morrell, former executive secretary and bookkeeper of The League, addressed the Commission regarding Mr. Heath's policy of directing staff personnel to go to him regarding fundraising matters, not to the Board. She indicated that every fundraising letter had a response sheet, and that the solicitations always asked donors to designate how they wanted donations used. When money was received, a record was kept of the contribution, which then went to the bookkeeper who entered the donation and designated where the money was to go. She indicated that she had asked Paul Madore to speak with Mr. Heath several times about designating where donations were to go.

Mr. Mackenzie asked Ms. Morrell if it was her testimony that for every dollar received by The League, a check would go out for the designated purpose. She responded that she didn't think so, but that she would have liked to see money that had been donated for a designated purpose be used for that purpose. Instead, money would be used for general office use after being deposited in The League's general account. Mr. Mackenzie asked if Ms. Morrell had any evidence that money designated for a particular purpose had not been used for that purpose. Ms. Morrell responded that she had no evidence in that regard, but that was her feeling of what had happened. Money had not been used for the purpose designated, but instead to reimburse The League for "in-kind contributions" to the referendum PACs.

Ms. Cronkhite asked Ms. Morrell if arbitrary decisions had been made about where the money was to go within The League, rather than as donations had been designated. Judge Henry inquired whether Ms. Morrell's duties included allocation of staff time for "in-kind contributions" to the PACs. Counsel Gardiner inquired as a follow-up question whether staff members allocated their time between strictly League functions and those functions that were provided as "in-kind" contributions to the PACs for referendum issues. Ms. Morrell responded that such allocation was not done on a daily basis. Counsel Gardiner inquired about who had the responsibility for recording who did what work as "in-kind contributions" for the PACs, since the PAC reports were prepared on the basis of the services received. Ms. Morrell responded that "in-kind" services were not documented well, staff time was "taken out of the air," estimated. Copying services were documented.

Attorney Whiting inquired when Ms. Morrell terminated her position with The League, to which she responded that it had been in March 1996. Mr. Whiting then noted that that period had been involved with Question One, not the People's Veto. He stated that there was no question that designated funds that had been received were used to pay the salaries of those staff personnel who had worked on the People's Veto for The League, as a reimbursement for the cost of providing those services. That fact had been reported previously.

Mr. Chris Sample of Winthrop addressed the Commission, noting that he has been a supporter of The League. He addressed the matter of the fundraising letters and the "check-offs" designating use of donated funds. He stated that he runs his own business and files numerous forms,

Minutes of Special Meeting on May 21, 1999

including tax forms. He knows what it is like to do things on a "shoestring." He supports The League because as a follower of Jesus Christ he believes in the moral positions The League takes and he gives money to The League for that purpose. He appreciates what The League does on limited resources. His perception as a member of the public is that The League does things as carefully as possible to keep things going, and he has trusted The League to allocate the money it receives wisely.

Ms. Lisa Lumbra, chair of The League's finance committee from January 1997 through October 1998, spoke regarding the issue of whether People's Veto contributions had been discussed at the Board meeting. She stated that she had told Mr. Heath that any checks received that were designated for the People's Veto referendum should be returned to the donors with The League's "thank you" and an explanation to send the money to one of the PACs instead. Mr. Heath responded that he did not recall such a discussion. Ms. Lumbra then presented the Commission with an e-mail communication from Mr. Heath to her dated December 19, 1997, which she believed supported her assertion.

Ms. Lane again addressed the Commission and stated that she had made a concerted effort to speak to the facts, that she believed in the cause of The League, and that those people who were bringing facts before the Ethics Commission were not doing so for bad motives.

Ms. Mercs addressed the Commission again and restated her concern about how the checks The League received were cashed.

Ms. Cronkhite questioned the practice of making "in-kind contributions." When an undesignated check was received by The League, she inquired whether the money was automatically absorbed and used to reimburse for "in-kind contributions." Attorney Whiting responded that money would come in to a designated fund and be recorded by the bookkeeper. A running total for photocopying, postage, etc. was matched against money received. The cost of time spent by staff had to come out of The League's general fund. Records kept of money received were turned over to the PACs.

Chairman Webster declared a brief recess at 11:05 a.m., and the Commission reconvened at 11:15 a.m.

Mr. Gary Holcomb, a former League Board member until October 17, 1998, addressed the Commission to explain the fund codes. Attorney Whiting questioned whether Mr. Holcomb was qualified to address the fund codes, to which Mr. Holcomb responded that he had deduced his explanation from an examination of the fund code documents. Attorney Whiting then stated that assumptions made by looking at the fund code documents were not valid because by looking at all references to "AS527" one might "deduce" that everything listed thereunder was for the "Gay Right Appeal." However, that was not correct. Instead, one would have to look at the original

Minutes of Special Meeting on May 21, 1999

source documents, in which case it would be learned that many things had been listed that, in fact, were not for the "Gay Rights Appeal." The original source documents are the best source of information, and The League referred to them in preparing its reports to the Ethics Commission. Mr. Holcomb then stated that any undesignated money should have been returned to the donor.

Mr. Yeskoo addressed the Commission again, inquiring why, if League personnel knew the fund codes, they would treat donations as random money. Attorney Whiting responded that the receipt documents were not coded against the solicitations.

Ms. Elaine Bridge, a former League Board member, addressed the Commission as a recipient of many appeal letters. She noted that appeals say they are both for a particular purpose and a general solicitation for funds in support of The League's general activities. She stated that she does not understand that if a solicitation letter goes out, why any money received should be earmarked for only one appeal.

Judge Henry requested clarification of one point. She asked whether, in response to an appeal letter, all checks earmarked for a designated purpose went only to that purpose, and undesignated checks went into the League's general fund. Attorney Whiting responded that most solicitation letters appeal for more than one issue. Mr. Thompson added that at the time, The League staff understood that they were in compliance with the law.

Ms. Christine Young addressed the Commission, inquiring whether Attorney Whiting had said that, when contributions came in for The League's general fund and for a designated purpose, those donations were commingled. Attorney Whiting responded that it was his understanding that when money came in during a particular period, those donations would be credited to a fund code that had been assigned for that particular period. In fact, Mr. Heath noted, funds were received that were a result of solicitations at various times, including months and even years before.

Ms. Molly McMann, current bookkeeper and data processor for The League, addressed the Commission to clarify the day-to-day bookkeeping practices at The League. She stated that checks that are received are "coded" and the codes are periodically changed (about every month). The various codes represent different periods of time more than particular purposes designated for the use of the funds received. She stated that, contrary to what had been stated, response cards were not color coded. Rather, response cards usually had several issues from which the donor could select to designate the use of a donation, and that every month or so a new code is assigned.

There being no further public witnesses requesting to testify, Attorney Whiting was offered an opportunity to make concluding remarks. He stated that the Ethics Commission had been caught in the middle of a "family feud." The League had been aware of the PAC laws and had tried to

Minutes of Special Meeting on May 21, 1999

comply with them. During every referendum question The League either set up a PAC or aligned itself with an existing PAC. The League now intends to set up a new PAC, the Christian Action League PAC, to deal with all PAC issues. He noted that this is the first time The League has been before the Ethics Commission, and The League has tried in good faith to comply with the Ethics Commission's requests for information. The League has tried to cooperate at every turn, has filed the required PAC reports, but that one entry on one of the reports had been missed when preparing the report. Attorney Whiting noted, however, that the missing information had been provided previously in a letter to Mr. Hain, which indicates that The League had not tried to avoid reporting the information, but that the item simply had been missed when preparing the applicable report.

Mr. Hain then was offered an opportunity to respond to Mr. Yeskoo's assertions about the objectivity of the Commission staff recommendation before presenting that recommendation. Mr. Hain responded that he has lived in Maine since 1994 and only started attending a church in Damariscotta in late 1998 because he likes to sing and that particular church has a good choir. He noted lack of knowledge regarding that church's membership in The League, and noted an incident several months before involving, he believed, a question Ms. Young had asked regarding the name of his pastor, to which Mr. Hain had responded embarrassingly that he only knew the pastor's first name and could not recall his surname. Mr. Hain assured the Commission that the staff recommendation was factually based and objective.

Regarding the relationship of the Commission staff secretary to Mr. Heath, Mr. Hain invited Ms. Diana True, who was present recording the proceedings, to explain that relationship. Ms. True explained that Mr. Heath's wife is a cousin of Ms. True's husband; that she had never met Mr. Heath at any family gatherings; and, in fact, she had not met Mr. Heath before the start of this matter. She only recently learned of the relationship when her husband told her of it. She concluded by stating that her input had not been requested in the preparation of the staff recommendation.

Mr. Hain then summarized the staff recommendation as more fully stated in the Agenda.

Mr. Mackenzie then addressed the Commission, noting that there have been four meetings of extraordinary detail. He stated that he was satisfied that nothing he had heard meets the definition of fraud or evidence of intent to deceive the Commission on the part of The League. In fact, he stated, there had been ample testimony that, by registering two PACs, The League thought it would be in full compliance with the PAC registration and reporting requirements. However, he noted that The League had acknowledged certain "slip ups," and that those "slip ups," had been of "industrial strength."

Minutes of Special Meeting on May 21, 1999

Thereafter, Mr. Mackenzie moved as follows:

The Commission finds that the political action committee report filed by the Christian Civic League of Maine on April 26, 1999 does not substantially conform with the reporting requirement, specifically in its failure to report \$15,625.57 in in-kind contributions. Under the formula in the law, this would incur a penalty of \$156.26 per day for each day after April 26, 1999. The calculated penalty then is 24 days times \$156.26, a total of \$3750.24.

Because this is a first offense by this political action committee and because there is no evidence that the omission was fraudulent, I move that this Commission impose a penalty of half the calculated amount or \$1,875.12.

Mrs. Cronkhite seconded the motion. There was no further discussion and the motion carried unanimously, concluding the matter involving The Christian Civic League of Maine.

Chairman Webster then offered Judge Henry the opportunity to address the Commission regarding the confirmation hearing for appointments of new members to the Commission that had been held on May 19, 1999. Judge Henry reported that her reappointment to the Commission for a second term of four years had been ratified by the Joint Standing Committee on Legal and Veterans' Affairs. Two new appointees, Hon. Michael Carpenter (to serve the remaining year of Mr. Mackenzie's unexpired term) and Hon. Virginia Constantine (to serve the remaining three years of Ms. Nelson's unexpired term), were also ratified.

Chairman Webster then reported that the Governor had requested that he continue to serve on the Commission until a decision is made about a successor to Mr. Webster, the originally tendered nomination having been withdrawn by the Governor.

Chairman Webster then expressed his appreciation personally and on behalf of the Commission to Mr. Mackenzie for his service as a member of the Commission for the past three years, and as its immediately former chairman.

On motion and unanimous agreement, the Commission adjourned at 12:15 p.m.

Respectfully submitted,



William C. Hain, III
Executive Director